IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

W.A. No.793 of 2002
and
W.A.M.P.No.1599 of 2002

M.Chinnapaiyan .. Appellant
(Petitioner)

-vs-

1. The State of Tamil Nadu,
rep. By its Secretary,
Health and Family Welfare Dept.
Fort St.George, Chennai 9.

2. Director of Public Health and
Preventive Medicine and
State Food (Health) Authority,
College Road, Chennai 6. .. Respondents
(Respondents)

Writ Appeal filed under Clause 15 of Letters Patent against the order made in W.P.No.23556 of 2001 dated 21.12.2001.The petition filed under Article 226 of the constitution of India prayed for the issuance of a writ of Certiorarified Mandamus calling for the records relating to the notifiation having reference R.No.193685/PFA/S1/1999 dated 16.11.2001 and quash the same in so far as the notification relates to chewing tobacco and in so far the as the petitioner is concerned and consequently forbear the Respondents,their men, agents and subordinates from interfering with the storage and sale of the tobacco and tobacco products by the petitioner. (WP 23556/2001).

For Appellant : Mrs.Nalini Chidambaram,S.C.
For Mr.S.Silambanan

For Respondents: Mr.K.Elango,Spl.G.P.

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J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 21.12.2001 made in W.P.No.23556 of 2001, in and by which the learned Judge by clarifying certain aspects, disposed of the writ petition along with the other connected writ petitions.

2. Heard the learned Senior Counsel appearing for the appellant as well as the learned Special Government Pleader for the respondents.

3. Even at the outset, learned Senior Counsel for the appellant has brought to our notice that the very same notification, viz., Notification dated 19.11.2001 was challenged before the Supreme court and by judgment reported in *(2004)7 SCC 68 [Godawat Pan Masala Products I.P.Ltd., and another vs. Union of India and others]*, the same notification was quashed. By taking us through the said judgment, learned Senior Counsel submitted that in view of the decision of the Supreme Court holding that the notification is bad in law, the conclusion arrived by the learned single Judge cannot be accepted and the writ appeal has to be allowed. There is no dispute as to the said aspect on the side of the respondents. Accordingly, following the decision of the Supreme Court reported in *(2004)7 SCC 68* (cited supra), this writ appeal is allowed. No costs. Consequently connected miscellaneous petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

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To

1. The Secretary,State of Tamil Nadu,
Health and Family Welfare Dept.
Fort St.George, Chennai 9.

2. Director of Public Health and
Preventive Medicine and
State Food (Health) Authority,
College Road, Chennai 6.

+1cc to Mr.S.Silambanan, Advocate Sr 4552
+1cc to Govt. Pleader Sr 4338

RS (CO)
km/7.2.

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